



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2021-0554; FRL-9187-02-R4]

Air Plan Approval; North Carolina;

Miscellaneous Emission Control Standards Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the approval of changes to the North Carolina State Implementation Plan (SIP), submitted by the State of North Carolina through the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ), through a letter dated April 13, 2021. This SIP revision includes changes to a subset of NCDEQ's regulations regarding emission control standards. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0554. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving certain changes to North Carolina's SIP that were provided to EPA by NCDEQ via a letter dated April 13, 2021, and are related to North Carolina's 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .0500, *Emission Control Standards*.¹ Specifically, EPA is approving changes to 15A NCAC 02D Sections .0516, *Sulfur Dioxide Emissions from Combustion Sources*, which include minor grammatical edits and remove references to outdated State-only rules; .0517, *Emissions from Plants Producing Sulfuric Acid*, which include minor typographical edits; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emission*, which correct typographical errors and incorrect references, and are clarifying in natures; and .0533, *Stack Height*, which include minor grammatical and formatting changes that do not alter the meaning of the provision.^{2,3}

Through a notice of proposed rulemaking (NPRM), published on August 15, 2022, EPA proposed to approve the changes to North Carolina's SIP-approved Rule .0516, *Sulfur Dioxide*

¹ EPA notes that the April 13, 2021, submittal was received by EPA on April 14, 2021.

² EPA received several revisions to the North Carolina SIP through the same April 13, 2021, cover letter. This rulemaking only addresses the revisions identified within this notice. EPA may act on the remaining revisions, including certain 02D Section .0500 rules not considered in this action, through separate rulemakings.

³ On February 22, 2022, and July 6, 2022, North Carolina submitted letters to EPA withdrawing the changes to Rule 15A NCAC 02D .0532 and .0527, respectively, from EPA's consideration. For this reason, EPA will not act on these changes to Rule .0532 or .0527. Both letters can be found in the docket for this action.

Emissions from Combustion Sources; .0517, *Emissions from Plants Producing Sulfuric Acid*; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and .0533, *Stack Height*, as submitted by NCDEQ on April 13, 2021. See 87 FR 50028. Additional details on North Carolina's April 13, 2021, SIP revision, as well as EPA's analysis of these changes, can be found in the August 15, 2022, NPRM. Comments on the August 15, 2022, NPRM were due on or before September 14, 2022. No comments were received on the August 15, 2022, NPRM, so EPA is now finalizing the approval of the changes as proposed.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02D, Rules .0516, *Sulfur Dioxide Emissions from Combustion Sources*; .0517, *Emissions from Plants Producing Sulfuric Acid*; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and .0533, *Stack Height*, all state effective on November 1, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

III. Final Action

As described in the August 15, 2022, NPRM, EPA is approving the April 13, 2021, SIP revision to incorporate various changes to a subset of North Carolina's emission control standards provisions into the SIP. Specifically, EPA is approving changes to 15A NCAC 02D

⁴ See 62 FR 27968 (May 22, 1997).

Rules .0516, *Sulfur Dioxide Emissions from Combustion Sources*; .0517, *Emissions from Plants Producing Sulfuric Acid*; .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; and .0533, *Stack Height*.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: October 14, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In § 52.1770(c)(1), amend the table under “Subchapter 2D Air Pollution Control Requirements,” “Section .0500 Emission Control Standards,” by removing the entries for “Section .0516,” “Section .0517,” “Section .0519,” and “Section .0533” and adding in their places entries for “Rule .0516,” “Rule .0517,” “Rule .0519,” and “Rule .0533” to read as follows:

§52.1770 Identification of plan.

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(c) * * *

(1) EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
**	**	*	*	*
Section .0500 Emission Control Standards				
**	**	*	*	*
Rule .0516	Sulfur Dioxide Emissions from Combustion Sources	11/1/2020	[Insert date of publication in the FEDERAL REGISTER], [Insert citation of publication]	
Rule .0517	Emissions from Plants Producing Sulfuric Acid	11/1/2020	[Insert date of publication in the FEDERAL REGISTER], [Insert citation of publication]	

Rule .0519	Control of Nitrogen Dioxide and Nitrogen Oxides Emissions	11/1/2020	[Insert date of publication in the FEDERAL REGISTER], [Insert citation of publication]	
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Rule .0533	Stack Height	11/1/2020	[Insert date of publication in the FEDERAL REGISTER], [Insert citation of publication]	
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[FR Doc. 2022-22724 Filed: 10/24/2022 8:45 am; Publication Date: 10/25/2022]